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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/873,784	06/04/2001	Mark Fagnani	325518.02/MFCP.143809	2841
45809 7590 04/29/2009 SHOOK, HARDY & BACON L.L.P. (c/o MICROSOFT CORPORATION) INTELLECTUAL PROPERTY DEPARTMENT 2555 GRAND BOULEVARD KANSAS CITY, MO 64108-2613				
EXAMINER				
IDOWU, OLUGBENGA O				
ART UNIT		PAPER NUMBER		
2425				
MAIL DATE		DELIVERY MODE		
04/29/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/873,784

**Applicant(s)**

FAGNANI ET AL.

**Examiner**

OLUGBENGA O. IDOWU

**Art Unit**

2425

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 3-32, 34-64 and 66 - 67 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-32, 34-64 and 66 - 67 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/25/2009 has been entered.

***Response to Arguments***

2. Applicant's arguments with respect to claims 1, 6-10, 12-13, 15, 24-28, 30-32, 34-40, 42, 45, 48, 53-55, 59-64, and 66-67 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 – 15, 17- 20, 27 - 32, 34 –47, 49 - 52 and 58 - 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexandria, patent number: US 6 177 931 B1 in view of Davis, publication number US 2002/002534 A1.

5. As per claims 1 and 34, Alexander teaches a method for reporting determined relationships counted impressions of a network device, comprising the steps of:

collecting event data pertaining to a network device (collecting user interaction information, col. 29, lines 14 – 21);

a life-cycle manager server for determining (i) which promotion is displayed on the network device (customized advertising, col. 32, lines 30 - 34), and (ii) a relationship between the collected event data and displaying the promotion, the determined relationship representing an effect of displaying the promotion on a viewer (analyzing viewer characteristics, col. 30, lines 17 - 37), and

Summarizing and aggregating the collected event data, wherein the collected event data becomes summarized and aggregated event data (col. 29, lines 14 - 21);

Organizing the summarized and aggregated event data in a structure that facilitates publication, generation or distribution of the event data, wherein the summarized and aggregated event data becomes organized event data (col. 29, lines 31 - 55);

a user interface for inquiring about the determined relationship between the collected event data and displaying the promotion (providing user information for

analysis by advertisers, col. 33, lines 8 – 15, the information being about user interaction, col. 29, lines 31 - 55).

Alexander does not teach combining the organized event data with external data, wherein the organized event data with external data, wherein the organized data becomes combined event data;

Normalizing the combined event data and external data, wherein the combined event data becomes normalized event data;

In an analogous art, Davis teaches combining the organized event data with external data, wherein the organized event data with external data, wherein the organized data becomes combined event data;

Normalizing the combined event data and external data, wherein the combined event data becomes normalized event data (Normalizing data from different sources and with different formats, [0050], [0076]);

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Alexander's user monitoring system by including a system that normalizes different data formats as described in Davis' system for the advantages of being able to accept user information from different sources and different formats in order to broaden the reach of the analysis system.

As per claims 3 and 35, The combination of Alexander and Davis teach wherein the event data is correlated with demographics wherein the determined relationships

includes a relationship between demographics and displaying the promotion, the determined relationship representing an effect of displaying the promotion, the determined relationship representing an effect of displaying the promotion on a viewer of a given demographic (Alexander: demography, col. 30, lines 17 - 37).

As per claims 4 and 36, The combination of Alexander and Davis teach wherein the determined relationship is determined from channel change events collected after the promotion is displayed (Alexander: attention span and general interest in advertisement, col. 30, lines 17 - 29).

As per claims 5 and 37, The combination of Alexander and Davis teach wherein the determined relationship is determined from information as to whether a channel surfer stopped surfing after a promotion was displayed (Alexander: attention span and general interest in advertisement, col. 30, lines 17 - 29).

As per claims 6 and 38, The combination of Alexander and Davis teach wherein the event data of each network device includes a channel on the network device (Alexander: watching a particular channel, col. 29, lines 41).

As per claims 7 and 39, The combination of Alexander and Davis teach wherein the event data includes a time at which the network device was tuned to the channel (Alexander: watching a show at a specific time, col. 30, lines 59 - 67)

As per claims 8 and 40, The combination of Alexander and Davis teach wherein the event data includes a time at which the network device was tuned away from the channel (Alexander: attention span and general interest in advertisement, col. 30, lines 17 - 29).

As per claims 9 and 41, The combination of Alexander and Davis teach wherein the event data includes a connection between the network device and a peripheral (Alexander: television and system components, col. 33, lines 14 - 21).

As per claims 10 and 42, The combination of Alexander and Davis teach wherein the event data includes the viewing behavior of a viewer (Alexander: viewer mannerism, col. 29, lines 56 - 67).

As per claims 11 and 43, The combination of Alexander and Davis teach wherein the viewing behavior includes scrolling through a program guide (Alexander: EPG interaction, col. 29, lines 39 - 40).

As per claims 12 and 44, The combination of Alexander and Davis teach wherein the viewing behavior includes promotion acceptances (Alexander: interest in product advertisement, col. 30, lines 20 – 21, 17 - 29).

As per claims 13 and 45, The combination of Alexander and Davis teach wherein after the promotion is accepted another promotion is displayed such that a relationship between the collected event data and displaying of subsequent promotions is determined, the determined relationship representing an effect of displaying the subsequent promotions to the viewer (Alexander: user information including interaction with advertisement, col. 30, lines 17 – 29, update, col. 29, lines 22 - 30).

As per claims 14 and 46, The combination of Alexander and Davis teach wherein the viewing behavior includes time spent on a viewer activity (Alexander: calculating the duration of each viewing, col. 29, lines 50 - 55).

As per claims 15 and 47, The combination of Alexander and Davis teach wherein the network device periodically sends the event data to the data warehouse (Alexander: information being sent to head end, col. 29, lines 14 - 21).

As per claims 17 and 49, The combination of Alexander and Davis teach wherein the event data is represented in a compressed manner using a bit mask (Alexander: information being sent to head end, col. 29, lines 14 - 21).

As per claims 18 and 50, The combination of Alexander and Davis teach wherein the event data includes receipt of broadcast triggers (Alexander: Triggers, col. 32, lines 51 - 54).

As per claims 19 and 51, The combination of Alexander and Davis teach wherein the broadcast triggers are transmitted on a line 21 (Alexander: Triggers, col. 32, lines 51 - 54).

As per claims 20 and 52, The combination of Alexander and Davis teach wherein the event data includes receipt of triggers in MPEG streams (Alexander: Triggers, col. 32, lines 51 - 54).

As per claims 27 and 59, The combination of Alexander and Davis teach wherein the event data includes the scheduled time for the promotions (Alexander: including triggers for commercial presentation, col. 32, lines 51 - 54).

As per claims 28 and 60, The combination of Alexander and Davis teach wherein the event data includes the network location of the network devices (Alexander: sending ads based on zip codes, col. 32, lines 42 - 44).



As per claims 29 and 61, The combination of Alexander and Davis teach wherein the event data includes subsequent event data after a promotion was displayed (Alexander: attention span and general interest in advertisement, col. 30, lines 17 - 29).

As per claims 30 and 62, The combination of Alexander and Davis teach wherein the subsequent data includes the display of a URL (Alexander: interaction with the internet, col. 29, lines 40 - 42).

As per claims 31 and 63, The combination of Alexander and Davis teach wherein the subsequent data includes additional channels to which the network device was tuned to (Alexander: watched channels, col. 29, lines 31 - 55).

As per claims 32 and 64, The combination of Alexander and Davis teach wherein the subsequent data includes the display of acceptance tags, and the response of the viewer to the display of the tags (Alexander: general interest in product advertisement, col. 30, lines 17 - 29).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 16, 21 – 26, 48, 53 – 57 and 66 - 67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander, patent number: US 6 177 931 B1 in view of

Davis, publication number US 2002/002534 A1 in further view of Zigmond, patent number: US 6 698 020 B1.

As per claims 16 and 48, The combination of Alexander and Davis teach a system that monitors user's interactions with data displayed.

The combination does not teach a system whereby viewed impressions are counted to determine relationships.

In an analogous art, Zigmond teaches a system monitors advertisements being viewed and send user interaction/information recorded to a headend for analysis (col. 9, lines 39 – 55, col. 13, lines 40 - 46)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination with a system such as Zigmond ad insertion system, for the advantages sending advertisements that is more targeted towards specific viewers.

As per claims 21 and 53-55, The combination of Alexander and Davis teach a system that monitors user's interactions with data displayed.

The combination does not teach a system whereby the user device is configured to accept and reject promotions.

In an analogous art, Zigmond teaches wherein the system is configurable in terms of acceptance and rejection events of promotions based on thresholds configured dynamically through a central console, the configured promotion acceptance and

rejection events are events in which the promotions are accepted or rejected respectively (ad filter, col. 15, lines 17 - 23).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination by including a system that screens the incoming advertisements, as described in Zigmond ad selection system, for the advantages of maximizing storage space by only keeping relevant advertisements.

As per claim 22, the combination of Alexander and Zigmond teaches wherein the system includes a selected network device configured with the promotion acceptance and rejection events (Zigmond: ad filter, col. 15, lines 17 – 23).

As per claim 23, the combination of Alexander and Zigmond teaches wherein the system includes a group of network devices configured with the promotion acceptance and rejection events (Zigmond: ad filter, col. 15, lines 17 – 23, Alexander: sending ads based on zip codes, col. 32, lines 42 - 45).

As per claim 24, Alexander teaches wherein the promotion acceptance and rejection events are based on demographics of the viewers (Alexander: displaying commercial based on user, col. 33, lines 26 - 43).

As per claims 25 and 57, Alexander teaches wherein the promotion acceptance and rejection events are based on viewership patterns of the viewers (Alexander: assigning commercials based on what viewers watch, col. 33, lines 36 - 46)

As per claims 26 and 57, Alexander teaches wherein the promotions acceptance and rejection events are based on physical capabilities of network devices (sending ads based on zip codes, col. 32, lines 42 – 44, col. 26, lines 46 - 50).

As per claims 66 and 67, The combination of Alexander and Davis teach a system that monitors user's interactions with data displayed.

The combination does not teach a system that correlates the collected data to the promotion schedule.

In an analogous art, Zigmond teaches wherein the determined relationship includes an impression that is counted by correlating the collected event data to a promotion schedule (statistics collection for ads, col. 13, lines 40 - 47)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination by including a system that keeps track of the watched advertisements, as described in Zigmond's ad selection system, for the advantages of monitoring advertisement traffic.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLUGBENGA O. IDOWU whose telephone number is (571)270-1450. The examiner can normally be reached on Monday to Friday, 7am - 5pm Est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendelton can be reached on 571 272 7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Olugbenga O Idowu/  
Examiner, Art Unit 2425

/Brian T. Pendleton/  
Supervisory Patent Examiner, Art Unit 2425